

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.27697 OF 2005

Dated: FEBRUARY, 2006.

Between:

A.P. Valmiki Safai Karmachara Samithi,
Rep. by its President Mr. Dharmaveer,
S/o. Prema Singh, aged about 27 years,
H.No.5-2-257, Gowliguda, Hyderabad. ... Petitioner

And

1. The Regional Manager, A.P.S.R.T.C.,
O/o. The Regional Manager/RR, MGBS,
Imlibun, Hyderabad. and 4 others. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.27697 OF 2005

-

ORDER :

This writ petition is filed seeking a declaration that the action of the respondents 1 to 3 in terminating the contract awarded to the petitioner for maintenance of Toilet Blocks, Sweeping, Cleaning, Washing of Bus-station yard and its premises at Mahathma Gandhi Bus-Station, Hyderabad as arbitrary and illegal.

The facts, in brief, are as under :

The 1st respondent - Regional Manager, A.P. State Road Transport Corporation, Rangareddy Region issued a notification dated 3-3-2004 inviting sealed tenders from the experienced and interested parties for allotment of the contract for maintenance of Toilet Blocks and Bus-station Yard and its premises on **no payment on either side basis** in Mahathma Gandhi Bus Station (MGBS) along with some other Bus-stations in Rangareddy region. As per the tender notice, the tenders were invited only from the Registered Social Service Organizations, Non-Governmental Organization, Voluntary Organization, Non-profit Making Organization having good track record in sanitary maintenance. It is not in dispute that the writ petitioner – A.P. Valmiki Safai Karmachari Samithi represented by its President Sri C. Dharm Veer was awarded the contract in respect of Mahathma Gandhi Bus Station for a period of two years w.e.f. 16-4-2004 to 15-4-2006. In pursuance thereof, a Deed of Licence, dated 16-4-2004 has been entered into, according to which the petitioner had to collect Re.1/- from the toilet users, among other conditions with regard to the maintenance of toilets and the premises of the bus-station. The petitioner also deposited security deposit of Rs.3 lakhs. While so, it appears that several complaints were received from the passengers that the petitioner was collecting excess amounts than the amounts specified in the Deed of Licence and that he was also not maintaining the toilet blocks and the bus-station yard properly. It also appears that the petitioner failed to pay water and electricity charges from May, 2005 onwards as required under the Deed of Licence dated 16-4-2004 and also failed to pay the contributions of Provident Fund, ESI and other statutory contributions to the workers engaged by the petitioner for executing the work under the Deed of Licence. In the circumstances, a notice dated 11-7-2005 was issued by the Divisional Manager, Rangareddy Division of A.P.S.R.T.C. calling upon the petitioner to show-cause as to why the licence granted in its favour should be terminated. The petitioner submitted an explanation dated 16-7-2005 denying all the allegations. However, by order dated 26-10-2005 the Corporation had terminated the contract

with immediate effect and ordered that the security deposit shall be forfeited as per the terms of the Deed of Licence. In the said order dated 26-10-2005 it was observed that the explanation offered by the petitioner was not convincing and it was found that the performance of the petitioner had not been improved leading to several public complaints.

Aggrieved by the said order, the petitioner filed O.S.No.6895 of 2005 on the file of the Court of III-Junior Civil Judge, City Civil Court, Hyderabad in which initially an interim injunction was granted on 27-10-2005 in I.A.No.1825 of 2005. In the said suit, it was claimed by the plaintiff i.e., the writ petitioner that the respondent Corporation was not justified in terminating the contract and in entrusting the work to one M. Suryanarayana, the 5th respondent herein. Subsequently, the Corporation as well as the 5th respondent herein who was arrayed as third defendant in the suit filed their counters and sought to vacate the temporary injunction. The learned III-Junior Civil Judge, City Civil Court, Hyderabad having heard both sides and having considered the material on record, by order dated 19-12-2005 vacated the temporary injunction granted on 27-10-2005 and accordingly dismissed I.A.No.1825 of 2005.

Thereafter, the petitioner preferred this writ petition questioning the order of termination contending inter alia that the impugned order which was nothing but reproduction of show-cause notice which was also devoid of any reasons was arbitrary and illegal.

This Court while directing Rule Nisi, by order dated 29-12-2005 granted interim stay of the order of termination dated 26-10-2005.

The first respondent Corporation filed a counter-affidavit denying all the allegations made by the petitioner and stating that after I.A.No.1825 of 2005 was dismissed by the III-Junior Civil Judge, City Civil Court, Hyderabad, the 5th respondent in whose favour the contract was awarded has taken up the work and he has been executing the same.

The 5th respondent filed separate counter-affidavit stating that having terminated the contract of the writ petitioner, the Corporation vide proceedings dated 26-10-2005 awarded the contract in his favour temporarily for a period of six months pending invitation of tenders by the Regional Manager, A.P.S.R.T.C., Rangareddy Region, MGBS. Consequent to the said proceedings, he has assumed the work and has been executing the cleaning work in the Bus-station by engaging the same workers who were engaged by the writ petitioner. Thus, it is contended that the plea of the petitioner that the impugned order of termination of contract resulted in depriving the livelihood to the workmen engaged by the writ petitioner is incorrect.

I have heard the learned Counsel for both the parties and perused the material on record.

At the outset, it is to be noted that the relief sought by the petitioner is solely based on a concluded contract. It is not in dispute that it is a non-statutory contract. In the circumstances, even assuming that there is any breach of terms and conditions of the Deed of Licence, dated 16-4-2004, the law is well settled that the remedy of the aggrieved party lies elsewhere, but the obligation arising out of such contract cannot be dealt with under Article 226 of the Constitution of India. That apart, a copy of Deed of Licence dated 16-4-2004 placed before this Court shows that as per Clause (22), all disputes arising out of the said contract should be referred to the Vice-Chairman & Managing Director of the A.P.S.R.T.C. whose decision shall be conclusive and binding on the parties.

In the light of the said specific clause under the Deed of Licence, which is binding on both the parties, it is not open to the petitioner to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. That apart, admittedly, the petitioner has already availed the common law remedy by filing O.S.No.6895/2005 on the file of III-Junior Civil Judge, City Civil Court, Hyderabad which is still pending.

Though the Counsel for the petitioner states that the petitioner has filed a

memo before the City Civil Court seeking permission to withdraw the said suit, it appears that the same has not yet been ordered.

At any rate, in my considered opinion, the relief is nothing but enforcement of terms and conditions of a non-statutory contract, and the matter also involves several disputed questions of fact and therefore the petitioner cannot maintain this writ petition. If the petitioner is aggrieved, it is always open to him to work out the appropriate remedy as available under law either for damages or for any other appropriate relief.

Having regard to the nature of the allegations made against the petitioner which allegedly resulting in inconvenience to the public, the interim order cannot be continued any longer and the interference by this Court is not warranted.

Accordingly, the Writ Petition is dismissed granting leave and liberty to the petitioner to work out the appropriate remedy as available under law. No costs.

G. ROHINI, J.

Dt. -02-2006.

GBS